

August 6, 2023

Jan Matuszko
Director
Environmental Fate and Effects Division
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

RE: Vulnerable Listed (Endangered and Threatened) Species Pilot Project: Proposed Mitigations, Implementation Plan, and Possible Expansion (EPA-HQ-OPP-2023-0327)

Dear Ms. Matuszko,

Thank you for the opportunity to provide comments on the Vulnerable Species Pilot Project (EPA-HQ-OPP-2023-0327). The National Association of Wheat Growers (NAWG) is a federation of 20 state wheat grower associations and industry partners that works to represent the needs and interests of wheat producers before Congress and federal agencies. Based in Washington, D.C., NAWG is grower-governed and works in areas as diverse as federal farm policy, trade, environmental regulation, agricultural research and sustainability.

NAWG is very concerned about the short period of time that EPA has allowed for gathering public input. NAWG is a federation of states and we have worked quickly to gather input, but the volume of information and the short time to comment does not provide robust time for engagement with our members. It is also important to note that we had similar concerns about the recent request for input on Bulletins Live, a related part of this proposal.

While we recognize that EPA is pursuing an approach to maintain use of pesticides and meet requirements to comply with the Endangered Species Act, NAWG is concerned about a policy approach tied to the pesticide label that does not align with the risk-based nature of the FIFRA statute. The approach being taken by EPA is not based on actual risk and ecological assessment, but rather is moving toward a hazard-based regulation. NAWG also supports the group comments submitted by several agriculture organizations and would like to highlight a portion of that letter regarding the ongoing work of the agency.

“While interim mitigation measures can serve as a bridge to full ESA compliance, they should not supplant product-specific risk assessments that could confirm the need for a particular measure or reveal that less stringent mitigations are necessary. As such, broad mitigation measures should not automatically be incorporated into risk assessments as baseline conditions, which appears to be under consideration. EPA must actually be able to connect the dots between mitigation efforts and salutary effects at the conclusion of the consultation process, rather than assume that whatever early mitigation is adopted is necessary to a no jeopardy or adverse modification finding. Further, EPA should be able to point to effectiveness of these mitigations should they require farmers to adopt additional practices.”

The Vulnerable Species Pilot Project (VSPP) has the potential to have significant economic impact on wheat growers and create a high level of uncertainty among growers in impacted areas. Wheat in the US is grown with quality traits desired by the end users, and must meet the unique needs of specific food products – cookies, crackers, bread and other baked goods, etc. Wheat growers work to supply the market with high quality wheat and manage the crop, accordingly, making timely decisions on the use of crop protection tools to protect the wheat from weeds and pests.

NAWG believes the VSPP online story map does not provide sufficient information for growers to identify specific fields that may be impacted or understand the differing requirements for pesticide use that EPA is proposing. Furthermore, the information is presented in a difficult format for growers to utilize. The detailed habitat descriptions provided are not sufficient for individuals to identify the habitat on their farm and the range of the species. NAWG is also concerned that there are not sufficient personnel at the federal, state and local levels to help growers understand or make case-by-case determinations in a timely manner during the crop cycle. As EPA knows, producers respond to pest pressures in a given year based on scouting reports and make decisions to apply pesticides when the need arises. That action must be taken in a timely manner to protect the crop. We urge EPA to reconsider the timeline for decisions to ensure growers of the ability to protect crops in a matter of hours, not days or weeks because they must make decisions based not only on the pest, but the weather conditions – wind and rain – that impact the window of opportunity to apply crop protection products. In pesticide use limitation areas¹, requirements that growers submit information for approval on the use on crop protection tools 3 months in advance could potentially result in growers

¹ “Pesticide applications are prohibited within this area unless the applicator coordinates with the local FWS Ecological Services field offices to determine appropriate measures to ensure the proposed

requesting approval for more products that necessary to be prepared for different scenarios that could play out in the field. This would result in overestimation of impact and potential loss of productive farmland for the grower.

The recommended mitigation options under the pilot do not seem to take into consideration different production regions of the US. Wheat growers in the US have a high adoption of conservation tillage and understand the importance of protecting their soil health and resources to maintain a viable, productive farming operation over many years and generations. We would encourage EPA to consider existing soil conservation plans to protect highly erodible land and conservation tillage practices that are in place by many wheat growers. We would also encourage EPA to work with wheat growers, USDA and state and local extension to understand the local production conditions and viable mitigation practices. Not all practices are viable or reasonable in production areas with lower annual rainfall rates. We would refer EPA to our previous comments on existing conservation practices and the need for information that is easily accessible with sufficient technical assistance for the implementation of these practices. We appreciate the recognition of NRCS programs and practices, but not all growers are able to participate in these programs given the high demand for NRCS assistance.

Also included in our previous comments on Bulletins Live Two (BLT), NAWG stressed that it might be hard for growers to get to the information on this website, especially on a cellular phone. When using the web address listed on the label, the user must click on multiple additional links to get to the BLT that are not necessarily intuitive or easy to find. The EPA should consider making a separate web page specifically for BLT and listing it directly on the label, rather than the current www.epa.gov/espp. Another option would be to use a QR code that would take the user directly to the needed website and information. Additionally, the EPA should understand that there can be a significant learning curve with any new requirements and should consider providing significant resources for technical assistance and education. The EPA needs to facilitate a significant amount of training with farmers, hosting local workshops and more, to get farmers comfortable with the process so that they are not unintentionally out of compliance.

Lastly, NAWG would like to again stress the need for appropriate information and technical assistance that is readily accessible to growers making decisions in remote areas which frequently lack adequate wireless coverage or the ability to access multiple websites. The changes that EPA is proposing have a significant impact on growers and carry liability of federal statutes on individual farmers and their operations – potentially impacting their livelihoods and their ability to support their

application is likely to have no more than minor effects on the species. The applicator must coordinate with FWS at least 3 months prior to the application”

families. Ensuring that programs align with the risk-based assessment framework of FIFRA and that all information is clear, easily accessible and does not leave growers guessing on the habitat range or the options available for those that are in protected areas under this pilot is critical.

Thank you again for the opportunity to comment on the pilot project.

Sincerely,

A handwritten signature in black ink that reads "Brent A. Cheyne". The signature is written in a cursive style with a large, prominent initial "B".

Brent Cheyne